

Planning Commission
Staff Report
Decemer 7, 2006



Case: 9-45-06W & 10-34-06 /
Rezoning/Subdivision
Project Name: Henson Property (Villages of Star Hill
Subdivision)
Location: 6700 S. Hurstbourne Parkway
Owner/Applicant: Henson Properties, LLC/McBride & Sons
Land Development, Inc.
Representative: Bill Bardenwerper
Engineer/Designer: Mindel Scott & Assoc.
Project Size/Area: 17.25 Acres
Form District: Neighborhood
Zoning District: R-4
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Latondra Jones, Planner II

Request

Change in zoning from R-4 to R-5A for construction of 126 condominium and patio home units on 17.25 acres.

Waiver of Section 10.2.4.B. of the Land Development Code to allow greater than a 50% encroachment of an LG&E easement into the required LBA along S. Hurstbourne Pkwy.

Staff Recommendation

Staff recommends **approval** of the change in zoning.

Staff recommends **approval** of the waiver **on condition** that a portion of the parkway buffer is moved out of the existing LG&E easement. Documentation from LG&E about this encroachment and what will be permitted within it should also be provided.

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Case Summary / Background

Summary

One-hundred twenty-six, two-story condominium units on four buildable tracts, totaling 17.25 acres, are proposed. Existing structures on site will be demolished. The total density of the site is 8.27 du./ac., which is below the maximum 12.01 allowed in the R-5A zoning district. The proposed structures are observing the required 20-ft. front and street side yards, 5-ft. side yards and 25-ft. rear yards. The applicant has provided renderings of the proposed buildings that meet building and site design standards.

S. Hurstbourne Pkwy. is a designated parkway. The site is observing the required 50-ft. parkway buffer and 75-ft. building setback. A 5-ft. sidewalk is proposed along S. Hurstbourne Pkwy. and internal sidewalks are proposed on both sides of the street. An area has been designated on the plan for a future TARC bench. A signature entrance wall and landscape easement are proposed at the entrance. Two hundred parking spaces are proposed: 168 garage spaces and 9 handicapped spaces, which is between the minimum required 189 and maximum 315 spaces.

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The required 15-ft. LBAs are provided adjacent to R-4 zoned property on all sides. To meet the 20% tree canopy requirement on each tract, large (Type A), Types B and C trees will be planted within the parkway buffer area, LBAs, ILAs and open space areas. Calculations are provided on the plan by tract.

To meet the 15% open space requirement, half of which must be recreational, 410,474 sf. of the site is designated as open space: there are open space areas on each tract. There is a recreational walking path that connects the two tracts to the north with benches placed along the path and a gazebo to the northeast.

SITE INSPECTION COMMITTEE COMMENTS

1. Extensive irrigated landscaping along Hurstbourne Lane.
2. Orientate buildings away from power lines
3. Building design needs to show entrance to front doors and better design
4. TARC stop needs to be covered
5. Signature entrance detail
6. Circulation of vehicles
7. Survey sink holes
8. First condos to be constructed on South Hurstbourne should be given great care to planning and design issues.
9. Height of buildings may be a concern for Hurstbourne

Site Context

The site is located on the recently-constructed portion of S. Hurstbourne Pkwy. The site is zoned R-4 and in the Neighborhood Form District. The site is surrounded by R-4-zoned property also in the NFD.

Land Use / Zoning District / Form District

	Land Use	Zoning	Form District
<i>Subject</i>			
Existing	Residential	R-4	Neighborhood
Proposed	Multi-family residential	R-5A	Neighborhood
<i>Surrounding</i>			
North	Single-family residential	R-4	Neighborhood
South	Single-family residential	R-4	Neighborhood
East	Single-family residential	R-4	Neighborhood
West	Single-family residential	R-4	Neighborhood

Background

This case was originally reviewed at the October 26 LD&T, then deferred to the November 30 meeting to allow the applicant to revise the plans with respect to

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the design and orientation of the buildings, internal pedestrian access, signage and adjoining property owner concerns.

The plan was revised to show internal pedestrian access. One building, three units, were eliminated from Tract 4 and the buildings on this tract were reoriented to provide an additional 50 feet from the rear property line. The open space on Tract 4 increased from 42,243 to 62,945 sf.

Building 1 was slightly reoriented to face Hurstbourne Pkwy. The applicant has provided renderings that show more landscaping.

Minor plat to shift lot lines (Residual Tract 2) and dedicate right-of-way to Watterson Trail, docket No. 005-06

Project History

Project History	Date	Issues addressed / discussion / changes to proposal
Pre-application meeting	7/5/06	
Project submittal	8/18/06	
Staff review	9/20/06	LDC/Comp. Plan/Inter-agency review
Revision submittal #1	9/18/06	Plan and road profile per Transportation comments
Site Inspection Committee	11/17/06	Parkway, building design & orientation, landscaping, circulation
LD&T review	10/26/06	Parkway, building design & orientation, landscaping, circulation
LD&T review #2	11/30/06	Design/internal pedestrian connections, parkway
Revision submittal #2	11/27/06	Revised plans per agency comments
Public hearing	12/7/06	
BOZA	N/A	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Staff Findings

Relationship to Comprehensive Plan - Cornerstone 2020 Plan Elements:

Community Form – The plan meets Neighborhood Form District guideline 1.B.3., which is characterized by predominantly residential uses that vary from low to high intensity that blend compatibly into the existing community. The proposed multi-family development is an area that contains a mixture of R-4, R-5, R-5A, R-6 and R-7 zoning. The plan meets guidelines 3.1 (Compatibility), 3.2 (Consideration of Building Materials), 3.3 (Residential Compatibility), 3.7 (Noise), 3.9 (Visual Impacts), 3.10 (Variety of Housing Types), 3.11 (Higher Density in Appropriate Areas) because the scale, design and building materials of the proposed buildings is compatible with that of buildings in the area. The required buffering is also being provided.

Mobility / Transportation – The plan meets Guidelines 7.1 (Impact of Developments), 7.2 (Impact Mitigation), 7.3 (Transit Supportive Development), 7.6 (Access to Surrounding Land Uses), 7.10 (Adequate Parking), 7.13 (Joint and Cross Access), 7.16 (Unified Access and Circulation) because the plan meets Transportation and APCD requirements, transit amenities are being provided, a stub street has been provided to the north and the required parking is being provided.

Livability / Environment – The applicant should address Guidelines 13.1(Landscape Types and Plant Communities), 13.2 (Native Plant Species), 13.2 (Tree Preservation), 13.4 (Landscape Design Standards) and 13.7 (Scenic Roadways) by discussing the type of landscaping and tree preservation to be provided. Also, The applicant should discuss in detail how the required Parkway buffer along Hurstbourne Pkwy. will be maintained within the existing LG& E Easement. Again, staff's recommendation is that a portion of the buffer be taken out of the easement.

Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)

The site is in the Hurstbourne Corridor Study area, which makes a low-to-medium-density residential recommendation.

The site is also located within the Fern Creek Neighborhood Plan, which encourages innovative subdivision design with an emphasis on stormwater management and that this area be developed in low-density residential uses. "However, in those instances that it can be demonstrated that a particular development proposed at a higher density will be compatible with adjacent, existing residential uses and not adversely affect or negatively impact the area's "small town character", then that particular development may be appropriate. An analysis of compatibility should consider, but not be limited to density, scale, traffic management, drainage and design"...

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Technical Review

1. At the November 30 LD&T, the commissioners requested that the applicant provide an idea of the vista along Hurstbourne Pkwy. using the required landscaping. LD&T also requested that the design and orientation of the proposed buildings be further specified in the renderings and improved, particularly along Hurstbourne Pkwy.
2. The applicant's justification for the waiver to allow more than a 50% overlap of the Parkway Buffer into the existing 150' LG&E easement is that it will not adversely affect adjoining property owners because the parkway buffer and setback requirements will still be met, but some of the buffer will be in the easement, adjacent to the roadway, not any adjacent property.
3. Per LG&E, the allowed plantings within their easements are usually low-growing hybrids or ornamentals- such as dogwoods or redbuds- that won't exceed 15 feet in height at maturity.
4. Staff recommends one or a combination of the following:
 - At least 15 feet of the parkway buffer should be moved out of the LG&E easement. Taller trees can be planted within this area while the smaller plantings in the remainder of the parkway buffer may be provided within the easement.
 - The Portion of the parkway buffer located outside the easement can be meandered, allowing for more plantings in the pockets and more of the parkway buffer outside the easement. Again, taller trees would be planted in these areas and smaller plantings can be in the remainder of the parkway buffer within the easement.
 - The applicant should work with design staff on the site design in light of moving a portion of the parkway buffer out of the LG&E easement.
5. Provide sign details, if available. Note #9 on the plan states that signage shall be submitted to PDS for review and meet the applicable sections of the code.
6. Provide lighting details, if available. Notes #25-28 on the plan list the applicable lighting standards of the LDC.
7. Sinkholes still need to be labeled on the plan.

8. Service structures (dumpsters, HVAC, etc., should be labeled on the plan. Note # 30 on the plan states that service structures shall be screened per Ch. 10 of the LDC.
9. Transportation has reviewed the plan and requested a public road connection from the site to Watterson Trail and vehicular connections to adjoining properties to the north and east. These connections are labeled on the plan.
10. MSD has reviewed the plan. MSD does not want a detention basin. Per MSD note on plan, a drainage easement may be needed.
11. The Natural Resources Conservation Service has reviewed the plan and expressed concerns about the presence of sinkholes in the Karst landscape. Per NCRS' soil and site evaluation report, there is one large sinkhole on the northeast side of the tract and at least five other sinkholes not identified that may have an impact on housing units, roadways or parking areas. All sinkholes should be clearly identified on the plan and flagged in the field. If there are areas treated, a series of notes, details and treatment should be provided, along with a geo-referenced indicator of the treatment area. Potential buyers should have ready access to the details of the sinkhole treatment, location and field data references developed during the treatment of the sinkhole.
12. A geotechnical report is required for any slopes greater than 30% and for sinkhole determination and treatment. Note #33 on the plan states that this will be provided.
13. APCD reviewed the plan and determined that there were no negative air quality impacts exceeding national standards. A note has been added to the plan stating that mitigation measures such as dust suppression techniques will be in place during demolition and construction activities to prevent fugitive particulate emissions.
14. TARC reviewed the plan and a boarding area with seats and a shelter are required. This amenity has been labeled on the plan. The applicant should work with TARC in meeting this requirement.
15. Staff has received calls from Councilman Peden's office inquiring about the case.

Standard of Review

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**

Staff Findings: The proposed rezoning meets the applicable guidelines and policies of Cornerstone 2020 as listed above under staff findings.

2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**

Staff Findings: The existing zoning classification is appropriate and the proposed classification is also appropriate. The Hurstbourne Corridor Study and Fern Creek Neighborhood Plan make a low-to-medium density residential recommendation for this area.

3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

Criteria for approving waiver:

1. The waiver will not adversely affect adjacent property owners; **and**
Staff Finding: The waiver may adversely affect adjacent property owners in that the existing LG&E easement may limit the extent of plantings within the parkway buffer area, therefore compromising the appearance of the parkway buffer.

2. The waiver will not violate specific guidelines of Cornerstone 2020; **and**

Staff Finding: The waiver will not violate the guidelines of the comprehensive plan in that the required buffer will be provided, whether in or out of the LG&E easement and must be maintained.

3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; **and**

Staff Finding: The extent of the waiver is not the minimum necessary to afford relief to the applicant because at least a portion of the parkway buffer can be moved out of the LG&E easement with redesign of the site in this area to accommodate it.

4. Either:

- a. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); **or**
- b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

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Staff Finding: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because at least a portion of the parkway buffer can be moved out of the LG&E easement with redesign. However, given width of the existing LG&E easement, it may be difficult to remove the parkway buffer completely back without hardship to the applicant.

Attached Documents / Information

None, refer to case file.

Notification

The following forms of notification were provided pertaining to this proposal:

Date	Description	Recipients
10/12/2006	LD&T notice	APO & Neighborhood Groups
10/12/2006	Neighborhood Notification	Registered parties
11/3/2006	Public Hearing Notice	APO & Neighborhood Groups

Standard Binding Elements (applicable to all cases of this type)

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. Use of the subject site shall be limited to multi-family and other uses permitted in the R-5A zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. The density of the development shall not exceed 8.27 dwelling units per acre.
4. Signs shall be in accordance with Chapter 8 of the LDC.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior

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- to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 7 Planning Commission meeting.
 11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed

- development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
12. The **signature entrance** shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
 13. The location of **sinkholes** as shown on the district development/preliminary plan shall be identified on the record plat.
 14. A **geotechnical report** shall be conducted for the site and the results shall be submitted to the Planning Commission, Public Works, and MSD for review prior to construction plan approval. A plan shall be submitted to said agencies specifying how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
 15. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
 16. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the District Development Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. Trees removed for maintenance of utility easement, disease or other reasons shall be replaced at the owner's expense.
 17. Street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

Proposed Binding Elements (unique to this case)

To Be Determined

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

Name

Title

Date